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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/177,356	10/23/1998	FRANCIS J. MAGUIRE, JR.	313-010-1	2996

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EXAMINER

SALCE, JASON P

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 07/24/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action

Application No.

09/177,356

Applicant(s)

MAGUIRE, JR., FRANCIS J. 102

Examiner

Jason P Salce

Art Unit

2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 3 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____



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Continuation of Item 5 on Advisory

Applicant's arguments filed 6/30/03 have been fully considered but they are not persuasive.

Applicant argues that the display is rotatable about the pole shown in Figure 14, but is not "rotatably mounted for rotation about" any other "second axis". Examiner disagrees, and refers again to Figure 14 of Smith, where display 302 is mounted on a first platform part (see Figure 15 for elements 306, 310, and 30, which all make up the first platform part, which display 302 is attached thereto) rotatable about a first axis (the first axis is the user rotating from left to right (or vice versa)). Smith further discloses a second platform part (the pole) that is within the first platform part (see pole going through the elements making up the first platform part), which is rotatably mounted about a second axis. The second axis is the ability to rotate the first platform part up and down the pole. As shown in Figure 14, the pole is threaded, therefore when the user rotates around a first axis (from left to right), the user also can move up and down the pole while rotating (therefore rotating about a second axis (up and down on the pole) as well as a first axis (left to right with elements 306, 310 and 30 which the display is attached thereto)). Smith further discloses at Column 10, Lines 66-67 that the element 300 in Figure 14 is a periscope style viewer, and that a periscope can rotate along two axes (left to right (or vice versa) or up and down). The examiner finally notes that an axis is a broad term, and simply refers to "a straight line about which a body or a geometric figure rotates or may be supposed to rotate" (see the Merriam-Webster's

Collegiate Dictionary), therefore since the display 302 can rotate around a first axis (left to right) and a second axis (up and down), then the limitations are met by Smith.

Applicant also argues that the Seecoast reference does not disclose a display. The term display is also broad, and although the Seecoast reference does not disclose a "video" display, which is what is used by the applicant's invention, the Seecoast reference does in fact disclose a display. A broad interpretation of display could include a fireworks display, which is simply something watched in open view.


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